

CHAPTER 10. VIOLATIONS AND PENALTIES

SUBCHAPTER 2. ENFORCEMENT

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4A:10-2.1 General provisions

(a) Where there is evidence of a violation of or noncompliance with Title 11A, New Jersey Statutes, or Title 4A, N.J.A.C., the Department of Personnel, Commissioner or Board shall conduct an investigatory hearing or other review, as appropriate. If a violation or noncompliance is found, the Commissioner or Board may:

1. Issue an order of compliance;
2. Assess costs, charges and fines not to exceed \$10,000;
3. Order the appointment of an eligible from an outstanding list;
4. In State service, consolidate personnel functions;
5. Initiate a civil action in the Superior Court;
6. Recommend criminal prosecution; or
7. Take other appropriate action pursuant to law or rule.

(b) See N.J.A.C. 4A:10-3.1 and 3.2 for salary disapproval procedures.

4A:10-2.2 Failure to appoint from complete certification

(a) When the examination process has been initiated due to the appointment of a provisional or at an appointing authority's request, the appointing authority shall make an appointment from a resulting complete certification.

1. When an appointing authority has notified the Department of Personnel either by the date of the examination or within 30 days after the initial date of the examination announcement, whichever date is earlier, that it has vacated the position and terminated the provisional appointee, the Commissioner may cancel the examination, permit the appointing authority not to make a permanent appointment, or take other appropriate action.

2. Following the period set forth in (a)1 above, an appointing authority may, for valid reasons such as fiscal constraints, petition the Commissioner for permission not to make a permanent appointment. The Commissioner may grant such petition, but may order the appointing authority to reimburse the Department for the costs of the selection process, provided, however, that when the jurisdiction in which the appointing authority is situated has agreed to the intergovernmental transfer pursuant to > N.J.A.C. 4A:4-7.1A of an employee into a title for which an open competitive or promotional list exists, the appointing authority may petition the Commissioner for a waiver of the costs of the selection process. The Commissioner shall notify the appointing authority of the amount of the reimbursement and provide an opportunity to respond to the assessment within 20 days of such notice.

(b) In addition to the actions which the Commissioner may take in (a) above, the Commissioner or Board may take any action set forth in > N.J.A.C. 4A:10-2.1. Prior to any such action being taken, the appointing authority shall be given notice and an opportunity to respond.

4A:10-2.3 Enforcement action

The Commissioner, the Board, or any resident or other party in interest may bring an action in the Superior Court for the enforcement of Title 11A, New Jersey Statutes, Title 4A, N.J.A.C., or an order of the Commissioner or the Board. The Commissioner may join in any pending action.

4A:10-2.4 Criminal violation

It is a crime of the fourth degree for any person to purposefully or knowingly violate or conspire to violate any provision of Title 11A, New Jersey Statutes, Title 4A, N.J.A.C., or an order of the Commissioner or Board.

(a) In salary disapproval matters, the Commissioner or the Board may:

1. Disapprove the payment of salary to an employee hired in violation of Title 11A, New Jersey Statutes, and Title 4A, N.J.A.C.;

2. Disapprove the payment of salary to persons who have approved or continued the payment of a disapproved salary or persons who have employment authority over an employee whose salary has been disapproved;

3. Order the appointment of an eligible from an outstanding certification;

4. Revive an employment list;
5. Assess costs, charges or fines pursuant to > N.J.S.A. 11A:10-3;
6. Initiate a civil action in the Superior Court; and
7. Take other appropriate actions pursuant to law or rule.